UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/505,486	02/16/2000	Timothy Robert Bratton	6037-003	5826

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EXAMINER
BACKER, FIRMIN

ART UNIT	PAPER NUMBER
3621	

DATE MAILED: 06/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/505,486	Applicant(s) BRATTON, TIMOTHY ROBERT
	Examiner Firmin Backer	Art Unit 3621

-- The MAILING DATE f this communication appears on th cover sheet with the c rrespondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *18 October 2002* .

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-49* is/are pending in the application.

     4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-49* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

     If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

     a)☐ All b)☐ Some * c)☐ None of:

         1.☐ Certified copies of the priority documents have been received.

         2.☐ Certified copies of the priority documents have been received in Application No. _____ .

         3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

     * See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

     a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)	4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) ☐ Notice of Informal Patent Application (PTO-152)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .	6) ☐ Other: .

Response to Amendment

This is in response to an amendment file on October 18th, 2003 for letter for patent filed

on February 16th, 2000 in which claims 1-21 were presented for examination. In the amendment,

claims 22-49 have been added. Claims 1-49 are pending in the letter.

Claim Rejections - 35 USC § 102

1.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed
> in the United States before the invention by the applicant for patent or (2) a patent granted on an application for
> patent by another filed in the United States before the invention by the applicant for patent, except that an
> international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this
> subsection of an application filed in the United States only if the international application designated the United
> States and was published under Article 21(2) of such treaty in the English language.

2.   Claims 1-49 are rejected under 35 U.S.C. 102(e) as being anticipated by Eller et al (U.S.

Patent No. 5,889,860 *(applicant IDS))*.

3.   As per claim 1, Eller et al teach a method of encoding or encrypting data *(encryption*

secured computer system, 10), comprising: providing an assembly of information-bearing sounds

(ISA) *(database that includes various type of information such as digital music, literary or*

artistic works) (see fig 1, column 2 lines 15-47, 4 lines 15-64) removing one or more selected

segments of the assembly, to produce a specified data file *(see fig 1, column 2 lines 15-47, 4*

lines 15-64) providing an encoding/encryption key and encoding or encrypting the specified data

file *(see fig 1, column 2 lines 15-47, 4 lines 15-64)* and communicating the encoded or encrypted

specified data file in a first selected communication channel and communicating the removed

segments in a second selected communication channel *(column 2 lines 63-3 line 14, 5 lines 14-64)*.

4.   As per claim 2, Eller et al teach a method further comprising providing a data supplement that indicates at least one of: location of at least one of the removed segments within the ISA; size of at least one of the removed segments within the ISA number of segments removed; separation distance between two consecutive removed segments within the ISA; and a selected portion of the encoding/encryption key; and communicating the data supplement in the second selected communication channel *(see fig 1, column 2 lines 15-47, 4 lines 15-64)*.

5.   As per claim 3, Eller et al teach a method further comprising providing the encoding/encryption key with at least one key parameter that uses information from at least one of the removed segments *(see column 8 lines 35-44)*.

6.   As per claim 4, Eller et al teach a method further comprising selecting the first and second communication channels to be the same channel *(see column 8 lines 35-44)*.

7.   As per claim 5, Eller et al teach a method further comprising providing the second channel as a secure communication channel *(see column 8 lines 35-44)*.

8.   As per claim 6, Eller et al teach a method further comprising concatenating the removed segments and the data supplement as a concatenated data file *(see column 8 lines 35-44)*.

9.   As per claim 7, Eller et al teach a method further comprising encrypting the specified data file using cipher block chaining of at least one block of the concatenated data file and at least one encrypted block from the specified data file *(see fig 1, column 2 lines 15-47, 4 lines 15-64)*.

10.   As per claim 8, Eller et al teach a method further comprising providing the at least one encoding/encryption parameter for the encoding/encryption key by providing a block of the concatenated data file as an initial block for the at least one encrypted block of the data *(see fig 1, column 2 lines 15-47, 4 lines 15-64)*.

11.   As per claim 9, 10, Eller et al teach a method further comprising removing at least first and second segments from the data file, where the first segment and the second segment have equal length or different lengths *(see fig 1, column 2 lines 15-47, 4 lines 15-64)*.

12.   As per claim 11, Eller et al teach a method further comprising combining the removed segments with the specified data file to form a combined data file and reproducing the combined data file as an assembly of sounds *(see fig 1, column 2 lines 15-47, 4 lines 15-64)*.

13.   As per claim 12, Eller et al teach a method of decoding or decrypting data, comprising: providing an encoded or encrypted first data file *(see fig 1, column 2 lines 15-47, 4 lines 15-64)* providing a second data file and a data supplement that indicates at least one of: an assigned

location of at least one designated segment of the second data file within a non-coded and

non-encrypted version of the first data file *(see column 8 lines 35-44)* size of at least one

designated segment of the second data file within the non-coded and non-encrypted first data

file; number of selected segments designated *(see fig 1, column 2 lines 15-47, 4 lines 15-64)*;

separation distance of at least two consecutive designated segments of the second data file within

the non-coded and non-encrypted first data file; and a selected portion of an encoding/encryption

key used to encode or encrypt the first data file *(see column 8 lines 35-44)*, and using the data

supplement to decode or decrypt the encoded or encrypted first data file and to position at least a

first sequence and a second sequence, drawn from the second data file, within the first data file

(see fig 1, column 2 lines 15-47, 4 lines 15-64).

14.   As per claim 13-20, They disclosed the same inventive concept as claims 2-11.

Therefore, they are rejected under the same rationale.

15.   As per claim 21, Eller et al teach a method of communicating data, the method

comprising providing an assembly of information-bearing sounds as a digital file of data

removing one or more selected segments from the data file *(see fig 1, column 2 lines 15-47, 4*

lines 15-64), to produce a specified data file having at least a first block and a second block,

providing an encoding/encryption key having at least a first key portion and a second key portion

(see fig 1, column 2 lines 15-47, 4 lines 15-64), providing a data supplement that indicates at

least one of: location of at least one of the removed segments within the data file *(see column 8*

lines 35-44), size of at least one of the removed segments within the data file; number of

segments removed *(see fig 1, column 2 lines 15-47, 4 lines 15-64)* separation distance between two consecutive removed segments within the data file; and at least a portion of the encoding/encryption key; encoding or encrypting the first block and the second block of the specified data file, using the first portion and the second portion, respectively, of the encoding/encryption key; and communicating the encoded or encrypted specified data file in a first selected communication channel and communicating the removed segments and the data supplement in a second selected communication channel *(see fig 1, column 2 lines 15-47, 4 lines 15-64)*.

16.   As per claims 22-49, they disclosed the same inventive concept as claims 1-21. Therefore, they are rejected under the same rationale.

Response to Arguments

17.   Applicant's arguments filed October 18th, 2002 have been fully considered but they are not persuasive.

a.   Applicant argues that the prior art fail to teach a divided media to distributed. Examiner respectfully disagrees with applicant's characterization of Eller et al's inventive concept. Eller et al teach a method that includes establishing a database of information at a server; encrypting at least a portion of the information such as digital sheet music, literary or artistic works, software programs, or other subject matter transmittable in digital form, using a key-based encryption system in connection with a request by a client, assigning a client-specific key to the client and transmitting the key to

the client. The client-specific key includes some indicia that can be used to identify the

client, thereby allowing for monitoring of information use on a client-specific basis Any

identifying information can be coded into the key for client identification. According to a

Eller et al's disclosure the partially encrypted information is transmitted prior to

providing a decryption key so as to allow for sampling of the information before a

transaction is consummated. Upon receiving an access request, a selected portion of the

information is transmitted in partially encrypted form and, thereafter, a decryption key is

transmitted to the client. By way of example, the partially encrypted information can be

sheet music where only the first page of a score is unencrypted for viewing. The client

can thereby browse through a selection of scores prior to making a purchasing decision,

authorizing payment and, in response, receiving a decryption key.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,
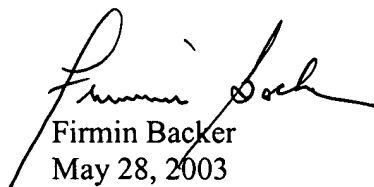
however, will the statutory period for reply expire later than SIX MONTHS from the mailing
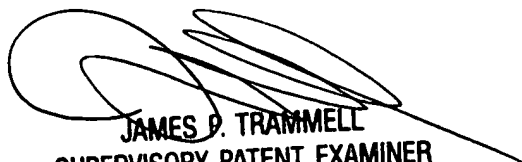
date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Firmin Backer whose telephone number is (703) 305-0624. The

examiner can normally be reached on Mon-Thu 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, James Trammel can be reached on (703) 305-9768. The fax phone numbers for the

organization where this application or proceeding is assigned are (703) 305-7687 for regular

communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding

should be directed to the receptionist whose telephone number is (703) 308-1113.

Firmin Backer
May 28, 2003

JAMES P. TRAMMELL
SUPERVISORY PATENT EXAMINER
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